

No. _____

05-706 NOV 23 2005

In The
Supreme Court of the United States

CLERK OF THE COURT

WILMER K. BRECKENRIDGE,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

ON PETITION FOR WRIT OF CERTIORARI
TO THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

PETITION FOR WRIT OF CERTIORARI
WITH APPENDIX

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QUESTIONS PRESENTED

1. Whether the standard applied by the Eleventh Circuit Court of Appeals in denying Petitioner's Certificate of Appealability violated Petitioners constitutional right and is inconsistent with Supreme Court precedents and other circuits. To allow such a decision to stand would establish precedent contrary to principles of procedural fairness, integrity and public reputation, resulting in a chilling effect on appellate advocacy in habeas corpus proceedings with unconstitutional ramifications.
2. Whether the Court may grant Petitioner's COA in lieu of granting a Writ for Certiorari.

LIST OF ALL PARTIES

Pursuant to Supreme Court Rule 14.1, the undersigned counsel hereby certifies that the following listed persons and parties have an interest in the outcome of this case. These representations are made so the Judges of this Court may evaluate possible disqualification or recusal pursuant to the local rules of court.

1. **BRECKENRIDGE**, Wilmer Keith
Defendant/Appellant/Petitioner
2. **BUTLER**, Honorable Charles
United States District Court Judge
3. **KIMBROUGH** William, Jr.
Trial Counsel for Petitioner
4. **LOFTON**, Richard J.
AUSA/ Counsel for Respondent
5. **MILLER**, Cloud H., III
Appellate Counsel for Petitioner
6. **SHEIN**, Marcia G.
Appellate Counsel for Petitioner
7. **THOMPCKINS**, Thomas
Motion for New Trial Counsel for Petitioner
8. **YORK**, David P.
AUSA/ Counsel for Respondent

With respect to this Appeal, there are no corporate entities for purposes of disclosure.

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I. WHETHER THE STANDARD APPLIED BY THE ELEVENTH CIRCUIT COURT OF APPEALS IN DENYING PETITIONER'S CERTIFICATE OF APPEALABILITY VIOLATES PETITIONERS CONSTITUTIONAL RIGHT AND IS INCONSISTANT WITH SUPREME COURT PRECEDENT AND OTHER CIRCUITS. TO ALLOW SUCH A DECISION TO STAND WOULD ESTABLISH PRECEDENT CONTRARY TO FUNDAMENTAL PRINCIPLES OF PROCEDURAL FAIRNESS, INTEGRITY AND PUBLIC REPUTATION, RESULTING IN A CHILLING EFFECT ON APPELLATE ADVOCACY IN HABEAS CORPUS PROCEEDINGS WITH UNCONSTITUTIONAL RAMIFICATIONS.	10
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On Petition for Writ of Certiorari
To the United States Court of Appeals
For the Eleventh Circuit
Appellate Case No. 05-10468-F

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PETITION FOR WRIT OF CERTIORARI

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Petitioner respectfully requests that a *writ of certiorari* issue to review the decision rendered by the Eleventh Circuit Court of Appeals on July 13, 2005, which denied Petitioner a Certificate of Appealability ("COA"), as well as the Eleventh Circuit's Order of